

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

JOHN DOE,

Plaintiff,

Docket No. 2:19-cv-02336-JTF

v.

RHODES COLLEGE.

Defendant.

**PLAINTIFF'S MOTION FOR EXPEDITED TELEPHONIC HEARING ON THIRD
PARTY'S, EMMA DAVIS, SEALED MOTION TO QUASH, AND MOTION TO
COMPEL EMMA DAVIS TO GIVE DEPOSITION TESTIMONY, OR,
ALTERNATIVELY, FOR DISCOVERY SANCTIONS.**

COMES NOW the Plaintiff, John Doe (hereinafter "Plaintiff"), and files this Motion and incorporated Memorandum for an expedited hearing, to compel Emma Davis to provide deposition testimony, and, alternatively, for discovery sanctions. In support of his motion, Plaintiff states as follows:

I. STATEMENT OF FACTS

1. On July 1, 2019, a subpoena *ad testificandum* was issued and properly served upon Defendant's Title IX investigator. **See attached hereto, Exhibit A, Emma Davis' Subpoena and Proof of Service.**

2. Ms. Davis' deposition was noticed for Monday, July 15, 2019, at 9:30 a.m. (*Id.*)

3. For the next 11 days, no objections were formally, or informally, stated to Plaintiff.

4. On July 12, 2019, at 5:04 p.m., after close of business on the Friday before Ms. Davis' Monday deposition, Ms. Davis served her Motion to Quash upon Plaintiff. (ECF No. 63).

In her Motion to Quash, Ms. Davis asserts a number of objections and a myriad of privileges. (*Id.*) However, none of these objections were timely raised, nor has the Court currently issued an order on Ms. Davis' Motion to Quash.

5. On July 12, Plaintiff filed his Response to Ms. Davis' Motion to Quash. (ECF No. 64) On July 12, Defendant filed its Response to Ms. Davis' Motion to Quash. (ECF No. 65).

6. On Monday, July 15, at 9:30 a.m., Ms. Davis did not appear for her deposition in compliance with the subpoena *ad testificandum* properly served upon her on July 1, 2019.

II. REQUESTS FOR RELIEF

Plaintiff now respectfully moves this Court for the following relief:

7. An expedited telephonic hearing on Ms. Davis' Motion to Quash.
8. An expedited order on Ms. Davis' Motion to Quash.
9. An expedited order compelling Ms. Davis to provide deposition testimony.
10. Alternatively, an expedited order compelling Ms. Davis to provide limited deposition testimony.
11. Alternatively, an order issuing discovery sanctions against Defendant, in the form of an appropriate negative inference instruction.

CONCLUSION

For the foregoing reasons, Plaintiff asks the Court for an expedited hearing on Ms. Davis' Motion to Quash, to issue an order on Ms. Davis' Motion to Quash compelling Ms. Davis to provide deposition testimony. Alternatively, for this Court to issue discovery sanctions against Defendant, in the form of an appropriate negative inference instruction, and that this Court order any further relief to which Plaintiff may prove he is entitled.

Respectfully submitted,

**BLACK MCLAREN JONES
RYLAND & GRIFFEE PC**

/s/ Brice M. Timmons
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on Defendant via the Court's ECF system on this the 28th day of June, 2019.

/s/ Brice M. Timmons

CERTIFICATE OF CONSULTATION

I hereby certify that Plaintiff's counsel has consulted with counsel for Emma Davis, Sam Blair, and Defendant's counsel, via e-mail, on the relief sought in this motion. The parties have been unable to come to an agreement on the relief sought herein.

/s/ Brice M. Timmons